

# NATURAL RESOURCES BOARD

## MINUTES

The regular meeting of the Natural Resources Board was held Wednesday, March 28, 2001, at the State Natural Resources Building (GEF 2), 101 South Webster Street, Madison, Wisconsin. The meeting was called to order at 8:30 a.m. All March Board Agenda business was conducted by the Full Board.

PRESENT: Trygve A. Solberg, Chair  
James E. Tiefenthaler, Vice Chair  
Gerald W. O'Brien, Secretary  
Herbert F. Behnke  
Howard D. Poulson  
Catherine Stepp  
Stephen D. Willett

### ORDER OF BUSINESS

1. Minutes to be approved.

1.A. Full Board Minutes of February 28, 2001.

Mr. Behnke MOVED, seconded by Mr. Willett approval of the minutes, as presented. The motion was carried unanimously by those members present.

Full Board Minutes of March 7, 2001 teleconference call.

Mr. Willett MOVED, seconded by Mr. Poulson approval of the minutes, as presented. The motion was carried unanimously by those members present.

1.B. Agenda for March 28, 2001.

Secretary Bazzell stated the following change to the agenda: Defer Item 6.A.4 (Authorization for hearing on revision of Chapter NR 809, Wis. Adm. Code, pertaining to establishing drinking water standards for radionuclides). With that change, Mr. Poulson MOVED, seconded by Mr. Behnke approval of the March 28, 2001, as amended. The motion was carried unanimously by those members present.

2. Ratification of acts of the Department Secretary.

2.A. Real estate transactions.

Mr. Tiefenthaler MOVED, seconded by Mr. O'Brien approval of the real estate transactions, as printed. The motion was carried unanimously by those members present.

3. Committee of the Whole.

3.A. Citizen Participation.

Mr. Willett: Are Units 71 and 74 next to each other?

No they are not. 74A and B are next to each other, 71 is east of Sauk County.

3.A.1 Richard Marshal, Richland Center, representing himself and Unit 71, regarding the T Zone, did not show.

3.A.2 Jerry Gander, Richland Center, representing himself and Unit 71, regarding the T Zone, did not show.

3.A.3 Larry Knudson, Prairie du Chien, representing himself, Crawford and Vernon Counties, regarding the T Zone. Expressed his opposition to the T Zone. He stated that the count is off in Crawford and Vernon Counties, they do not have the deer population. Mr. Knudson stated that more time is needed walking the woods to access the deer population. He spoke with the biologists and foresters of Crawford and Vernon Counties, they also felt they do

not have a deer problem and are also not in favor of a T Zone but not against it. They are willing to work with a new program. The Deer 2000 program is a good program, but speaking to some of the leaders and the desires of it, it definitely needs work yet.

- 3.A.4 William Howe, Prairie du Chien, representing himself, Crawford and Vernon Counties and the Wisconsin Conservation Congress for Vernon County, regarding the deer situation. Mr. Howe stated that they wished to speak as a group on a positive note on the management of Vernon and Crawford. The Proposal that Mr. Howe and his group presented to the Board indicated that: Vernon and Crawford Counties believe they have a citizen concept of managing the deer situation in these two units. Mr. Howe stated that Crawford and Vernon counties have a proposal for a five year evaluation of a continual type of season management. Structure a nine day either sex deer gun season for these two major agricultural management units, 74A and 74B. Antlerless tags could be honored as they are statewide, during the regular deer gun season. The black power also the archery seasons would be as listed statewide. This would for five years halt any placement of T type seasons being held in these two counties management units. Both Crawford and Vernon Counties were the two listed as any deer special management counties in the past. The majority of the seasons have been structured as two days of three days any deer. Later the concept of nine days any deer was instituted.
- 3.A.5 Gary Dillaber, Desoto, representing himself and Unit 74B, regarding the T Zone, spoke in favor of the proposal presented by Mr. Howe.
- 3.A.6 Tom Urbanek, Stoddard, representing himself and the Rod and Gun Club, regarding the T Zone, spoke in favor of the proposal presented by Mr. Howe.
- 3.A.7 Michael McClurg, Viroqua, representing the Conservation Congress 5<sup>th</sup> District, regarding the T Zone, spoke in favor of the proposal presented by Mr. Howe.
- 3.A.8 Jim Stafslie, Chaseburg, representing himself, regarding the T Zone, appeared to show his support for the proposal that Mr. Howe presented.

Mr. Tiefenthaler: Were those counties, Vernon and Crawford, part of the Mississippi River Zone, two days bucks followed by seven days of anything?

Mr. Knudson: About three years ago?

Mr. Tiefenthaler: What was the reason for doing that, for changing?

Mr. Howe: Wildlife management thought we should try nine days. Then the T Zone is creating problems with landowners, with agriculture. We are trying to reduce the amount of conflicts that occur with the public.

Mr. Behnke: Are you proposing this for this year's deer season?

Mr. Howe: If possible, yes.

Mr. Behnke: I believe that we need to take this out to public hearing.

Mr. Howe: Whatever the steps are that are necessary.

Mr. Tiefenthaler: That can still be done.

Mr. Behnke: Yes, it could be done. But it is a requirement.

Mr. Willett: Is the basis of it biological or is it landowner participation?

Mr. Howe: We think that biology is attuned to these agricultural areas as they are to other places in the state. We also look at the public side. Game management is public management and we think this is an opportunity to better understand that relationship, the environment and the public.

Mr. Willett: How are you going to get them to open up their land?

Mr. Howe: We won't have as many people closing, is what we feel.

Mr. Willett: Are you organizing some kind of campaign?

Mr. Howe: The Rod and Gun Club has been working on that.

Mr. Urbanek: I am a landowner. I have been talking to the hunters, local farmers and local sports groups in our area. They think that we have about 15 to 20 deer left per square mile, which the biologists say we have 34. The hunters and landowners say the deer aren't out there. We are trying to raise the amount of deer per mile so that we could have 20 to 25 per square mile. Our land can carry more deer per square mile.

Mr. Behnke: Was this ever discussed with the Conservation Congress in your counties?

Mr. Urbanek: Yes it was.

Mr. Behnke: And that was supported?

Mr. Urbanek: Yes.

Mr. O'Brien: What would it be this fall in your county?

Mr. Urbanek: As far as the season?

Mr. O'Brien: Yes

Mr. Urbanek: T Zone. Early and late. The landowners say we have only roughly 15 to 20 deer right now.

Mr. Behnke: You say that you have department support for this, wildlife management support?

Mr. Urbanek: Yes. The local wildlife managers.

Mr. Howe: There is a dispute as to how we have arrived at some of the numbers. They are not fully in favor of our proposal, they are not saying that it isn't worth an effort to use these two management units to have a base to show what stability does to a season for four or five years.

Mr. Tiefenthaler: Do you have any deer damage claim numbers?

Mr. Urbanek: No, I checked on that with the deer biologists. Last year in our area we had one farmer that we know of that claimed deer damage.

Mr. Tiefenthaler: Are any of you farmers at all?

Mr. Urbanek: We have a few farmers here and landowners.

Mr. Howe: I called yesterday to get the deer damage, agricultural damage claims and the deer car numbers. We were ranked in the lower 10% of the state. As far as some of the agricultural damage, there were a few apple growers. Agricultural damage is almost non-existent. We had 135 deer killed, 74 of which were car kill in this unit, in over 573 miles.

Mr. Poulson: Did Vernon and Crawford Counties participate in the deer damage situation as a county? Do they participate, because if they don't then there isn't any damage. What is the farmer's discussion relative to the T Zone? What do they have a problem with?

Mr. Howe: There is money available.

Mr. Stafslie: I have a neighbor that has 400 acres next to my farm and he doesn't hunt. But, he lets people squirrel hunt, turkey hunt and deer hunt. He divides his farm up so that he controls the number of people that goes in there. He lets a lot of people in there but he doesn't want them running into each other. He stated I have put up with this for two weeks in November for the last 35 years I have been on this farm. But he stated that he would not put up with it for a month. He stated that he would not have orange coats and deer rifles out there in October when he is trying to harvest corn and the rest of his crops. He stated that he would close it and not have to deal

with it at all. This farmer is really cooperative and lets a lot of people hunt on his land. Where we live it is probably better than 90 percent private land. There is very little public land in our area.

Mr. McClurg: Another thing with land owners, in October, a lot of cattle are in pasture. The last few years there have been a lot of leaves, vegetation and brush which poses a problem. The problem of identifying the deer as opposed to the cattle. Our area is going out of dairy quickly and a lot of these farmers are going into beef production. Beef is a whole different animal out in the pasture. Our concern is in the safety of their cattle. Later in the year, when cattle are out to pasture, it doesn't bother during the regular season but that early season is unsafe. There are two farmers in Rush Creek alone, one owns close to 14 farms and the other owns five or six farms. Both of them made the comment that if we have a T Zone there will be no hunting on their land, any season. This is how strongly they feel against this in Crawford County. That is a lot of land, probably 5,000 acres taken off the hunting range.

Mr. Behnke: This is something that is coming onto us pretty fast. I think we need to have a little more time to study this situation and get some more input before we can take action on it. We can't take action on it today anyway. I would suggest that this be referred back to Tom Hauge's group. They meet with these people and come back to us next month so we have some kind of recommendation, giving these people the opportunity to participate before the Board, if you want to, as an action item at that time, if it is proposed as an action item. If it is not proposed as an action item then, obviously we would not be taking any action on it at all. I would suggest that we refer this back to the Bureau of Wildlife and have them work with these people and report back to the Board because no action can be taken on any deer season until next month anyway.

Mr. Tiefenthaler: I want to ask Steve Miller, we were talking about possible public input on this. Could we have your take on that?

Steve Miller: This particular proposal is not been out officially as a rule proposal. With something like this, with the five year proposal as they are suggesting, it is my understanding that the only thing that we could do would be to go to an emergency rule process. I don't know that we could amend the current Zone T rule that is going to come back to you next month. We need to sit down and work with the folks. One of the things that the program is trying to use is aerial sensor techniques. I can talk to Tom Hauge and Bill Mytton and maybe we could use those there next year. We have an item in the budget and if that is approved that will give us extra money but we need some additional capacity to deal with issues and that was a major recommendation in Deer 2000. As far as the process of amending the rule, to have a five day either sex, I don't think that we can do that under the current rule proposal. You have to have a separate procedure.

Mr. Urbanek: We attended an over winter goal meeting in Richland Center last spring. The facilitator completed the agricultural damage, car kill and goal harvest numbers. When we were finished we were told the guidelines that if we would like a change we needed to vote to change our winter goal. If we stayed within the guideline of 10, either up or down, that in fact it would be adopted to see how we did with that number. We had to have a consensus. We voted to increase it by 10, had a consensus. They stated fine that this would be adopted. Later on in the year we find out, that someplace along the way, someone cut it in half and we only had five. Had we gotten the 10 that we voted on, we wouldn't be here right now. We would fall less than 20 percent of the over winter even based on the Department number counts. So had that gone through we wouldn't be here today and this wouldn't be an issue.

Mr. Howe: We want to thank you for your input on this. We will be real happy to meet with the staff. The two counties have been pioneers of new management concepts. We would like to consider being a new management concept in the future. We enjoy all of the nice things that have happened in southwestern Wisconsin. I want to also remind you that we are a part of the Mississippi River Block. The Mississippi River Block is saying what the heck are you guys up to. We are looking not just at the two counties and two management units that might be in the Mississippi agricultural block to get rid of some of the problems of people management.

Mr. Willett: The dynamics of the ownership of the land in the Mississippi Block and what is happening is being closed off. Which would be a disaster for us with management. So, any plan that has come up is going to need to include access.

Chairman Solberg: Deer 2000 has some access issues in it.

- 3.A.9 Dan Warren, Waukesha, as President representing Waukesha Water Utility Commission, regarding radium in Wisconsin drinking water. He stated that he is a private citizen just like all folks present and he worked in the

private sector. The Waukesha Water Utility Commission governs all activities of the Waukesha Water Utility which is owned by the City of Waukesha. It is a five person commission which has the Waukesha Mayor, City Council and three citizens. Mr. Warren stated that he is one of those three citizens. He has been on the Commission for 14 years and the Commission Chairman for the last six years. He stated the he was speaking on a decision by the Board to allow staff to begin the enforcement of the radium standard here in Wisconsin.

Mr. Willett: If the numbers are anywhere close to being what they are, can you recite for us the economic impact of this regulation, what you have done as a utility to study the impact on your water utility and tell us how we can not enforce these? Since we are contracted under the EPA under our authorities to be the enforcer of the regulations. If that is our role and that is our relationship with them we are designated as their agents to regulate as the enforcer. We need to go through the process of implementing the regulations.

Mr. Warren: I will cover every point that you have raised. But I will jump to the last point and that is essentially you are saying that you have a responsibility and a duty to enforce the federal standards. How can you not do that? We understand that. We know that whatever the federal standard ends up being the Department here has a responsibility and a duty to enforce that standard. We understand that and we are on board with that. So, we are not here to ask you to do anything other than what the federal standards are going to be. What we are really here to ask for is a little more time. We are here to ask for you to delay, for six months, the beginning of your enforcement process. The reason is because we have several activities, several initiatives at the federal level with EPA and Congress to try and do something about this standard.

Mr. Warren proceeded with the history of radium. In the 1970's there were some dial painters in Pennsylvania that painted the fluorescent components on watches. They used their tongue to wet the powder to put it on and they ingested significant concentrations of radium in their body. They got bone cancer. EPA said this isn't good. We know we have some radium in drinking water supplies in the country, we need to set a standard. They set a standard of 5 pCi. A very conservative standard at the time. That was necessary. Waukesha Water is 11 pCi. At 5 pCi there is about 600 communities throughout the country, 50 in Wisconsin that will be impacted by this standard. Waukesha is the largest in the country. We have a population of 64,000. If this standard were affecting New York, San Francisco or LA, this conversation would not be taking place because the federal standards would be a lot higher. Since the 1970's there was a lot of discussion of what the standard really should be. EPA went through health risk models, folks like ourselves hired scientists to do studies. The world community put forth information with regard to what is a safe threshold. Studies at Waukesha Water sought out, one as an example Dr. Roland, who literally wrote the book on radium. "Health Effects on Humans from Radium in Drinking Water". The effects of radium in drinking water in humans and its health affects basically indicates that 100 or above is a safe threshold standard. The reason I say that is just to frame the five with our 11 with 100. It doesn't make sense, there is no correlation until you get to much higher concentrations. In the early 1990's EPA considered setting a new standard at 40 pCi. They believed they had the data to support a safe standard at 40 pCi. In the mid 1990's they changed their mind and stated that 0 pCi would be safe. December 7, 2000 EPA finished their rule making and set their standard at 5 pCi. They viewed their rule making complete. Waukesha Water has expended approximately a million two of our own internal resources to try and do these various studies and try to put information in front of EPA to set an appropriate standard. Most recently, we did a health risk study which we brought to your staff earlier this week to share with you folks. This study was performed by the Medical College of Wisconsin in conjunction with the State of Wisconsin Department of Health that was an occurrence study. We had asked the EPA to do this for years and they refused to it so we took it upon ourselves to do it. They looked at the entire State of Wisconsin. They looked at every zip code in the state, took a look at where the occurrences of bone cancer happened. They then took a look at the concentrations of radium in drinking water in the public water supplies and also in communities that didn't have radium in their drinking water. They were looking for the correlation what EPA's model predicted and that is, even at concentrations at 5 pCi, there should be elevated occurrences of bone cancer. That study was completed a year ago and it showed there is absolutely no correlation, none at all. Some of the higher levels of the occurrences of bone cancer are in communities where there is no radium in drinking water. One of the highest occurrences with radium in drinking water there was either none or less than the normal background for bone cancer. We shared this with EPA, we went out to EPA, talked to the folks about it, pleaded they use this information because it is the first time this study had been done. They ignored it, so, there is a lot of frustration. We have to provide information to help them understand. All of those issues of what the standard should be I know does not sit at this table. They sit in Washington. That is where we have been fighting the battle. We have several initiatives and we need time. That is why we are asking you today that when you consider this next month at your meeting, that you consider giving us six months. What that does, it opens up the envelope for us to have several initiatives come to head. Initiative number one is that we have filed a law suit against EPA stating that 5 pCi is arbitrary and capricious. We did that in February and it is underway. From what the Federal District Court in Washington has told us is they expect by the end of the year they will have rendered a

decision. Number two, we have Representatives Kleczka and Sensenbrenner and Senator Kohl working on our behalf as they have in the past. President Bush stated that his administration is reviewing all rules and regulations 60 days prior to his administration. EPA Director Witman already has determined that arsenic is one of those items that they have stopped the process and sent it back to EPA to take a look at the standard because they don't believe it is appropriate. We are asking her and EPA to do the same thing for radium. In our view, the process, the decision making, the rule making, is virtually identical. It is just a different element that is of concern. We should hear about that within a month or two. The third item is equally important. In EPA's data, we talk about dollars and costs here, shows that any kind of cost impact analysis that we did, the last information that EPA had was from 1976. They have a duty and an obligation to update that and they never did. Two years ago we actually got Congress to direct them to update as part of the radium rule making and they refused to do that. This last October, Congress turned around and said wait a minute we told you folks to take a look at this and update your records. You didn't do it. Now what we are doing is, there is a Congressional directive in the last budget bill that specifically directs the GAO, Government Accounting Office. This directive is the watch dog for Congress on their agencies to specifically go and do a cost effective cost benefit analysis for radium in drinking water from the 600 plus communities that would be affected by it. We hear they will start that study very shortly. We expect the results of that study to be completed within a 12 month time frame, maybe a little less. These are three initiatives. Each one of those initiatives could significantly impact on what the radium standard is. All three of those initiatives is an uphill battle for us. I am here taking the liberty to speak for the 49 other communities in Wisconsin and the 600 other communities in the country that will be affected by this. We know that we will have to live by whatever the standard is, however it comes down. If all three of these issues are exhausted, and they are exhausted such that the 5 pCi stands, then we are going to be in talking to your staff saying lets get on with it. Lets come into compliance with that standard. Lets do it the most cost effective way that we can. We have some things that are operating at a different level and we are pleading with you to simply give us six months. Our fear is that if you begin this process now, in this time frame, you are going to march down the enforcement path. You are going to put pressure on us and it is going to create some other issues for us that are going to have a negative impact on our efforts in Washington. We also believe that you do have the discretion to honor our request for six months. That is what we are really asking. The impact on Waukesha, \$55,000,000.00. \$55,000,000.00 of capital improvements. That is the fix. Some information that you may have seen tops it out at the state level of \$25,000,000.00. It is \$55,000,000.00 and we have data that supports that. The annual operating costs for that is \$3,000,000.00 annually. One other big issue that the federal government and I know the Department has not looked at closely, and that is there are byproducts from treatment of water pull the radium out. Those byproducts could very well be classified as low level radium active wastes. As you all know, we have no disposal sites in the State of Wisconsin. I am not sure that we have any in the upper mid west. There is a community in New Jersey where Ms. Witman comes from, that is facing that issue today, where they implemented a disposal system. They can't dispose of their slug in the State of New Jersey and they have to go to North Carolina with it. There is another cost item that is a high risk for all of us. That is the impact that it has on us. We clearly understand your comment earlier, you have to do what you have a responsibility to do. But, we know you have some discretion in time. Please give us that opportunity of time to play some of these three options out. Six months, we will have a real good idea of what is going on and we are going to have to comply, like you, with whatever the standard is. That is our request and I would be glad to share and answer any questions the Board may have.

Chairman Solberg: Dan, you are asking for six months but two of the options clearly won't be done until the end of the year and the second option you thought would go on for 12 months and you are asking for six months.

Mr. Willett: What we have, Mr. Chairman, right now is a request for public hearing. If we put that off for six months that gives them a year.

Mr. Warren: We do understand your process and with the six months we still feel we can accomplish the Department's goal by acting responsibly in doing what you need to do with follow-up from the federal standard. In the process the other six months is through the public hearing process and comments.

Secretary Bazzell: I appreciate the presentation. This is an old issue. I think some of you know this issue has been around since 1978 when the 5 pCi standard was, in fact, set. We began working back in the early 1980's with a number of communities, that were alluded to here, to bring them into compliance. We established compliance agreements with a number of communities including Waukesha. We have been working with them for 15 years now on this issue. At this point we did pull the rule back for this month but at this juncture I can't recommend to the Board to wait another six months. There are a couple of reasons for that. One of the most important ones is that we can only hold off for so long. When EPA did take a look at some of the recent rule making standards that were set, arsenic was pulled back, this one was not. This one was not changed. Whether they still have an intention of doing something, that doesn't seem clear at this point if they would come back and

change that 5 pCi standard. The study that was eluded to on Waukesha, regarding a relationship between radium and bone cancer. We are told that the consultant for Waukesha as well as the Department of Health and Family Services had indicated that the study is not statistically valid given the population that was selected to conduct the study. There are some issues as relates to the validity of the study itself based on the review that has, in fact, occurred. There is significant cost associated with implementing the rule. Very costly and we are sensitive to that. At the same time, if we are able to move forward as an agency a given set of rules on the books before the end of the calendar year, we qualify for additional money. Upward of 75 percent of the cost of monitoring associated with the implementation of the rule. We will not have access to those dollars if we do not move forward with the rule package and have it on the books by the end of the year.

Mr. O'Brien: How many dollars does that entail?

Mr. Willett: \$3,000,000.00 and it is a \$1,500,000.00 to us. The problem with all that, Mr. Secretary, is that this is the same as the highway fund deals. You either do this and do what we say or no highway funds and it is somewhat disturbing what happened in those last 60 days. I don't think it was substantial or public input. I have some concerns that we have agreed with EPA that we will implement their standards as their agents under the Clean Water Clean Air Act and then they go and do this. I don't know if we in good faith can do that without going through our normal processes.

Secretary Bazzell: What we are suggesting is that we come back perhaps as early as next month and initiate the rule making process. Nothing happens over the next several month period. We go over through the same process that we do with any other rule. Take it out to public hearing, listen to what the communities have to say about it and bring the issue back to the Board. I think, as you saw in the green sheet package, this was scheduled for this month it is very clear that we have no intention of enforcing that standard until that situation is resolved. So, we are certainly not looking to put the community at risk and to start an enforcement action when we have a subsequent court case come up a month or two later. We are going to take the time and wait to see how that plays out.

Mr. O'Brien: Mr. Secretary, I heard you say that we would loose some funding, about \$1,500,000. What other repercussions would there be if we delayed it for the six months that Mr. Warren is talking about?

Secretary Bazzell: One of these issues is what Board Member Willett raised, it is the fact that we are working under the delegated authority and responsibility from the EPA to carryout the regulations.

Mr. O'Brien: What would be the repercussions if we delayed it six months?

Secretary Bazzell: Certainly, one of the issues is what the standard is. Obviously, there is a standard for a reason to protect public health. To wait, again the standard was set in 1978, at some point you need to get on with life and decide and let the court case play out. I think that what we are staging allows us to be ready to move if the standard doesn't change. If it does change, then we will come back and start this process over.

Mr. O'Brien: So you are saying that there aren't any repercussions other than we have the responsibility. We are not going to be penalized, EPA isn't going to come in here and do it themselves without us? It isn't going to be costing us money?

Secretary Bazzell: That I don't know. We have not explored that. Certainly, they are looking for states to come forward to implement the rule. We have not talked about what they would do if we would wait another six months. I don't know the answer to that right now.

Mr. Tiefenthaler: We are talking about public health here. We have been waiting 15 years and I haven't seen people falling off the bench. I can't see any reason not to wait six months. We are talking that EPA is maybe going to sanction us for a million and a half to three million dollars. And this is a veiled threat as a sanction as they did in highway. We are talking at the end of the year, we are talking a community that has \$50,000,000.00 to \$100,000,000.00 on investment and they already have put in \$250,000 - \$300,000 for a study that EPA is saying that doesn't count. I think it is ridiculous. I think that we should put this off for six months and start the rule package then and we will still get it done by the end of the year. If indeed other things don't occur in the meantime.

Secretary Bazzell: Again it is not the EPA that discounted the study it was the State Department of Health and Family Services and Waukesha's consultant.

Mr. Tiefenthaler: I understand that. I think we should go to the carpet with EPA and not just talk to them. I would say listen we have something here that a community has a huge investment, you all know it, we all know it, it has been known for 15 years or longer. We don't want to start this for six months because of the things that are in place right now, until we get an answer. Then we will start it. What is forcing our hand to start this right now? Except for a veiled threat and the partnership that we formed with them. This partnership should come to us and say we have some real serious money concerns here and we want some answers from Washington before we start this process.

Secretary Bazzell: Again, yes there is an awful lot of money involved here. No question about that. At the same time we need to talk to EPA and see what their perspective is.

Mr. Tiefenthaler: I think we should just stand by and we do talk to them. I wouldn't even say that we should go forward with it next month.

Secretary Bazzell: We will have conversation with them as soon as we can. We will try to initiate some conversation with them this week to see what their reaction would be to a delay.

Mr. Tiefenthaler: I think our number one question is do we want to delay it six months, what do you think?

Mr. Behnke: I think your request is premature Jim. I think we should wait until the Department comes back to us because we don't know what we can and cannot do. We could do the same thing next month that we did this month if it can be delayed we could delay it further. Right now, I don't think it is quite fair to do what they need to do to prepare for it.

Mr. Tiefenthaler: Let's say that the request is that we want to start this in six months we don't want to start it right now. I don't see why we are jumping right into this now anyway after we waited this long. I don't understand that.

Secretary Bazzell: The reason we are moving toward it now is that in December, as was mentioned in the presentation, EPA did reaffirm that 5 pCi would be the standard and based on this. Just like any other rule that EPA has asked any state to move on, it is our job to move forward with the process. That is why it is happening at this time.

Mr. Tiefenthaler: I saw EPA rush through, along with a lot of other things, with the former administration at the last second. Lets quick hurry and get this in and I am totally uncomfortable with that. That is why we should take this to EPA, talk to EPA and I am not saying that we should delay it from our Board's standpoint as a policy decision. But, to go with that in mind and say this is what we want to do and here is why. I think that should be our mission to EPA rather than just saying well the 5 pCi and the 11 that Waukesha has, we would like to raise it to 20. Forget all that. We want to delay it six months because there are issues that are going to be derived from and some decisions that are going to be made. We will have a better handle on this then. Six months to me, as a request here, for us to carry to EPA seems very reasonable and conservative. I don't think this is a public health issue after 15 years. We have gone on way too long with that. It seems to me, from what I am hearing and reading in this report, that the science isn't really there anyway. I don't think EPA isn't real strong about the science.

Ms. Stepp: What is the standard that your science has shown that is acceptable? You said something about the 50 pCi standard. Currently, Waukesha is at 11, is that correct?

Mr. Warren: Yes.

Ms. Stepp: So, if the standard gets changed, obviously to 20 or whatever you might be looking for, then you wouldn't have this \$55,000,000.00 capital improvement cost. Obviously, you would be operating under the standard.

Mr. Warren: That is correct. Our science and other folks science indicates that the threshold level is really 100 or greater. When EPA came in the early 1990's with a recommendation, and again this is important, EPA came forward with a 40 pCi recommendation in the early 1990's. We were in support of that, because even though the science shows that it is higher, we understand that agencies have a responsibility to be more conservative than less conservative. So, we figure 40 is a very comfortable number. For all practical purposes the 40 pCi standard



would have put virtually all of the communities in this country in compliance and radium would not have been an issue for any of these communities.

Mr. Willett: So what happened on the way to the forum?

Mr. Warren: I can't tell you how many times I have asked that question. I honestly have never gotten a straight answer. We have never gotten a good answer.

Mr. Poulson: I was a little confused as to who decided if the study was right or wrong.

Mr. Warren: EPA. In due respect to the Secretary, it was not the Medical College of Wisconsin, it was not the Wisconsin Department of Health that said this study was in error, which is what it sounds like or not substantive. In fact, it is. You can read in the executive summary. The only thing they say is what they had available to them from a statistical standpoint was only the whole State of Wisconsin and its population. The people that are saying that this report really doesn't hold enough water is EPA and we have met with these people. We had a meeting in October, before they set the final rule, to make sure they understood. We had a room of eight people all the way up to the assistance or number two person in EPA at the urging of Vice President Gore, at that time. We said are you going to take this into consideration at all? They said no. We asked why not? They said, it wasn't statistically significant. We said, okay. But wouldn't just the results of this cause you to pause because it disproves what your health risk models say should be occurring. We could understand that you needed a larger statistical base. Number one, you ought to do that. Waukesha Water Utility with an annual operating budget of \$4.5 million only, that goes to pay our people and our power, are not equipped to do that. That is the responsibility of the federal agency. You folks should do that. You should recognize that this is giving you some information that is contrary to what you believe. So, please go forward from that. That is what we asked them to do. They said they were not going to do that. We asked why? They stated, because it would require a study of half the population of the country to make it statistically significant. That is a quote. That is some of the dialog that we get. So, some of the people that are looking at the occurrence study and want to discredit that are folks that want to see the 5 pCi stand and that is EPA. We recognize that we are above the larger statistical base but all we had as our resources is the Medical College of Wisconsin and the State of Wisconsin Department of Health. We were asking them to please take the next step forward and see if you come up with the same results.

Chairman Solberg: Has there been a study done by half the people of this country?

Secretary Bazzell: I want to be clear as to what my comment was with respect to the study. My comment was very simply straightforward. My comment was this. What I am told is the State Department of Health and Family Services and the consultant, Waukesha's own consultant, had indicated that the population used in the study would not provide statistical evidence to support the communities contention there is no increased bone cancer as a result of high radium levels.

Chairman Solberg: I think we should look at discussing this for the rest of the month and we will look at whether it will go on the agenda or not.

Secretary Bazzell: At Mr. Tiefenthaler's suggestion, we will certainly talk with EPA and get some feedback from them in terms of how they would react to a six month delay.

Mr. Warren: We have already talked to EPA. We deal with them all the time. My expectation, and I am sure what the Secretary and staff will find out, is that it isn't going to make any difference to EPA.

Mr. Willett: Or it might because if we tell them we have some results enforcing a standard that is not adequately supported. It is a lot different then some affected party coming in.

Mr. Warren: What I was going to say in terms of EPA looking at the time lines, as they see states taking over the enforcement process. The EPA isn't saying to the states that by the end of the year you better have your rules in place to enforce. There is a broader window of time to do that, that is all I was saying. I would not expect EPA to say that you better do something here before the end of the year. Your folks would report back to you on that but I wanted to share that with you. All we are asking for is a little time.

Mr. Tiefenthaler: That is what I think is reasonable. I think our policy should be protection of our communities and we, in our view, would be possibly premature. We are going to spend a lot of money if we don't.

Mr. Warren: If we would have believed there is a legitimate health risk to our community, we would be doing this. We would have been doing it 20 years ago. I can assure you of that. We would not have waited for the Department or EPA to tell us to do it. All of the studies that we had done or had reviewed by others would have said this is a significant health risk for your community.

3.B. DONATION - \$25,250.00 from The Friends of Rib Mountain State Park to assist the Department of Natural Resources in purchasing a skid steer for use at Rib Mountain State Park.

Secretary Bazzell: The Friend Group was started in 1992. They have raised money for a number of very good causes including land purchases around the State Park. They funded and built a shower building for the camp ground at the facility. They donated nearly \$21,000 for a theater on the property and over \$4,300 to install restroom lighting for visitors at the State Park. This last donation that we are recognizing is one of a long series of outstanding donations that have been made. The \$25,250 that is being donated for skid steer at the park will assist Department staff and complete projects and maintenance activities not just for now but for many years to come. I think it is just one more example of the fine partnership that we have with the very active Friends Group. Secretary Bazzell thanked the Friends Group and Mr. Steve Engler, President of the Friends of Rib Mountain, with a plaque of appreciation.

Mr. Engler: I appreciate the gift. The money came from over 30 individual donors, well over a dozen businesses and foundations in the Wausau area. Our group was just the spark plug and one member, Jane Whiley, our fund raiser. When we need money for that park, she is the one that gets it for us. It is a park that supports itself, it pays its own way and has a lot of support from the community. The next project is an interpretive center, education center, to be attached to the new contact station. We are looking at spending anywhere from \$30,000 to \$70,000 additional money on this additional room of the contact station, educational displays, use of classroom facility by area schools. A lot of schools come up to this park in the fall and spring. That is our next project and I think our signature project for the park. We appreciate it and hope to keep up improving the park with your help.

Chairman Solberg: Thank you very much. Over the years, since I have been here, the amount that the Friends Group has donated to Rib Mountain State Park is impressive.

Mr. Engler: I don't know what the total amount is. The inside donations, labor, various businesses and material that gets donated. I would say the total involvement is about \$250,000. We hope to continue to make the park a great place and I know with the ski hill expansion, there is a lot of controversy going on with that but we hope that some additional funding to help improve for summer visitors in that park.

Chairman Solberg: Board Member Behnke, Sue Black (Director of Parks), myself and several other people were up there this past summer. It is a very nice park.

Mr. Engler: I want to also thank Sue Black, she has done a great job as far as our group is concerned promoting parks and really increasing the visibility.

Mr. Willett MOVED, seconded by Mr. Poulson, acceptance of the donation. . The motion was carried unanimously by those members present.

3.C. Presentation of 2001 Registered Laboratory of the Year Awards.

David Webb, Section Chief, Integrated Science Services, and Secretary Darrell Bazzell presented this item. The Stora Enso North America's Whiting Mill Laboratory located in Stevens Point, received the award for the Large Registered Facility category and the Blanchardville Wastewater Treatment Plant Laboratory, located in Blanchardville, received the award for the Small Registered Facility category.

Stora Enso North America's Whiting Mill Laboratory has been chosen for the following reasons: The lab uses advanced quality control testing procedures to ensure they provide the most accurate assessment possible of the data reported to the Department and to their own constituencies for regulatory compliance. They perform quality control on a daily basis which far exceeds the minimum requirement frequency to achieve compliance. The auditor that has been working with that facility, one of the five members of our staff, was quite impressed with the consistency of the data they produce within that lab. Our auditor identified only a single minor deficiency during his onsite evaluation of the lab in February, 2000.

The Blanchardville Waste Water Treatment Facility was chosen for the following reasons: This lab has an established history of compliance with Department regulations, is a leader among small waste water treatment labs in the area of introducing computerized data management systems. They routinely perform quality control testing procedures more frequently than required by established regulatory state and federal regulations. The auditor who performed the onsite evaluation was unable to identify a single deficiency in the onsite evaluation. This is quite remarkable. The lead analysts and claim operator, Joe Flannigan, is one of the premier waste water operators in southwest Wisconsin. Joe is a true professional who continually has new stricter demanding regulations in channeled his energy in building an exemplary laboratory operation. The Blanchardville Treatment Facility shows that even small laboratories with limited resources and financial support can produce data of exceptional quality.

3.D. INFORMATIONAL ITEM – Update on the Crandon Mine application submitted by Nicolet Mineral Company.

Larry Lynch, Mining Team Leader, Bureau of Waste Management, gave a presentation on the update on the Crandon Mine application. Referring to the information packet that was handed out to the Board Members, Mr. Lynch summarized the update. Located in Southwest Forest County, within the Towns of Nashville and Lincoln, five miles south of Crandon, 30 miles east of Rhinelander and about 1.5 miles east of Mole Lake Chippewa Reservation. The underground mine is a massive sulfide ore body, 55 million tons. Mr. Lynch reviewed mineral separation: Mill/concentrator using selective froth flotation process, producing zinc, copper and lead concentrates for shipping off-site; producing pyrite concentrate for use as back fill material for the mine. He stated the project duration: construction – three years; operations – 28 years (16 years zinc phase and 12 years copper phase) and closure/reclamation - four years. He further discussed employment crews: construction would be 800 and operations 400 to 500 staff. Surface disturbance: 600 acres total, which includes mill/plant site, 120 acres; tailings area, 300 acres; soil absorption site, 90 acres. Mining waste management of the tailings management area includes engineered composite liner and cover systems, 14 million tons depyritized tailings, 1 million tons waste rock. The pyrite concentrate mixed with cement for back filling mined out stops. Water treatment includes neutralization, precipitation and filtration.

Mr. Lynch stated there were changes to the project that have occurred over the past three years: 1) The Mine Grouting Plan includes emplacement of a grout umbrella over the upper portions of the mine workings which: reduce volume of water flowing into the mine; reduce volume of water requiring treatment; reduces impacts to groundwater system; reduces impacts to surface water bodies. 2) The Wastewater Discharge Method entails: no discharge to the Wisconsin River; discharge is to groundwater through a soil absorption system; is more advanced water treatment system to include double reverse osmosis; no loss of water from the Wolf River watershed. 3) Pyrite separation entails: modification to flotation process to recover a pyrite concentrate and depyritized tailings; pyrite concentrate mixed with cement and used as mine back fill material; depyritized tailings disposed of in the tailings management area (depyritized tailings may be non-acid generating, tailings management area decreased in size). The bottom line is at the end of the system there is no loss of water to the Wolf River Watershed.

Mr. Tiefenthaler: In 28 years of mining your going to have droughts and you are going to have lower water years. Is there any proposal if that would affect the groundwater to suspend mining operations?

Mr. Lynch: First in terms of the uncertainty of the amount of water which flows in. One thing is that the company has a local agreement with the two townships. As a condition with their agreement with the Town of Lincoln, they have stated that if mining flow exceeds 600 gallons a minute, they will shut down. This places a cap on the amount of inflow and by limiting that you also limit the degree of impact. The second important thing is that we recognize the connection between the groundwater and the surface water. There is also a part of this proposal where they have a surface water mitigation plan. This plan, through a very involved process, they have determined their minimum stream flows that can be tolerated. Minimum length levels that can be tolerated. If the stream flow gets below that point, that the lake level drops below that elevation, then the company has to mitigate the impasse. The way that is done it is tailor made to the surface water so we have a list of the various surface waters and the company would try to match water quality. There will be a well from which they draw groundwater, which is hard water, that they can use to supplement hard water bodies and they will use a portion of the treated waste water to add to soft water lakes to mitigate that impact. As part of the surface water mitigation plan there is very definite triggers that tell when the company has to take action. It is based on monitoring and the determination of public interests.

The final phase has to do with highlight separation. Basically, it is an added step in the milling process where the company will recover pyrite. By recovering the pyrite, the material then gets disposed of on the surface presents much less of a hazard. The company feels they can recover nearly all of the pyrite. I think the number they addressed was 99 percent of the pyrite can be removed. That leaves you with, what the company is proposing, a

net neutral facility on the surface. They have also included a testing program that will be conducted along the way. So if they do find that the tailings aren't quite as neutral as they said they would be, there are plans to adding additional lime stone to guarantee that this facility will not generate acidic drainage. When that change was made it also had an impact made on the size of the facility by removing pyrite. We are still reviewing many of the aspects of the project, but on the face of it they look like very positive things in terms of reducing or controlling the environmental impact. Our current activities right now are focused on groundwater issues. The main issue to resolve now is finalizing groundwater flow model. The company has prepared a groundwater flow model which is being used to predict the amount of water that would flow into the mine. The Department staff and our consultants are reviewing that. We have made changes to the model, we are reviewing it and are basically running it ourselves. We are changing some of the values of the parameters that go into the model. In our minds we have a more conservative approach in the evaluation of the process for the project. We need to get a good handle on the volume of water that will flow into the mine. That drives the associated groundwater impacts, the surface water impacts, the surface water mitigation plan and it goes to the main aspects of the project. The other main area of analysis at this point is evaluation of the re-flooded mine to determine whether or not it would comply with groundwater standards in the long term. The mine is being back filled with the material that is high in pyrite. We are taking that material that can create acid and putting it underground. It is being mixed with cement but it is still underground in the groundwater. Our focus and the intent of our analysis is to determine whether or not that back filled mine would cause groundwater problems in the future. The company has prepared a re-flooded mine management plan. It details the actions they will take that will prevent this from happening. They have projected that the mine will not cause a groundwater problems in the future provided all of these steps are taken. We and all of our consultants are in the early stages of reviewing that portion. We have a large amount of work to do before we can complete our analysis of the re-flooded mine. The schedule is indefinite. We have gotten away from having specific target dates as to when anything is going to happen. The next big step that we have to take is to prepare and release an environmental impact statement. The final page of the handout lays out a generic schedule for the project. It could happen late this year. We could have a draft environmental impact statement out the final quarter of this year, if that is provided. We complete our analysis, the company gives us whatever additional information that we need and that is all acceptable.

Chairman Solberg: Lets say that you release the draft environmental impact statement. Obviously, then some lawsuits start. Who do they usually sue? Who pays for all the lawsuits?

Mr. Lynch: Typically, the lawsuits wouldn't occur until later in the process. If you look at the schedule, we release the draft environmental statement, we have public hearing and based on the comments that we receive in the public hearing and other written comments we would come back and revise the draft for a final. I suppose you could be sued when the final EIS is released. My original thought was you wouldn't get sued until the end.

Mr. Willett: When you complete your administrative process you go to the Circuit Court and then to the Court of Appeals. So the evidence gathering is before the administrative law judge.

Chuck Hammer, attorney for DNR. Anyone can sue at anytime. But, the question is really, is it smart or will we win and I agree with Mr. Lynch, I don't think much will happen until after the contested case hearing is over. By law, that hearing needs to be held six months to nine months after the final environmental impact statement. All of the permits and approvals will go before an administrative law judge. That is a trial like hearing, it will last months. I will be surprised if there weren't 30 to 60 Ph.D.'s testifying plus all the other witnesses. The record will be transcribed, there will be exhibits stacked high with the final decision being the record of the hearing and then that is likely to go to a circuit court. They would probably not take new evidence but only review the record that was generated and decide on each individual question whether the court concurred or did not with the administrative law judges decision. We would expect the Department of Justice to be representing the state on that.

Discussion pursued regarding the state and federal court system.

Mr. Behnke: When will you determine the amount of your irrevocable trust funds? And, how much would the amount be?

Mr. Lynch: The irrevocable trust funds are still an issue that we have to deal with. We don't think that we need to have that resolved before we put out a draft. However, we do need it before we will get to a final environmental impact statement. We hope it will be sooner. The company has been deferring action on that. As far as when they put the money in, that doesn't happen until after the deferments are issued, if they are issued. Before they can start construction, they have to deposit whatever the amount that has been determined.

3.E. Retirement Resolutions:

1. Allen Bluhm
2. Duane Harpster
3. Stanley Johannes
4. Karen Machkovich
5. Jim Moore
6. Jack Seifert
7. Robert Wallen

Secretary Bazzell reviewed the careers of each retiree and commended them for their excellent years of service to the Department and to the State of Wisconsin. Mr. Tiefenthaler MOVED, seconded by Mr. Willett, approval of the retirement resolutions, as presented. The motion was carried unanimously by those members present.

4. Board Members' Matters.

Catherine Stepp. I received a call from a newspaper in my area Tuesday about the Mutt Swan Moratorium. They wanted comments from me and I don't know what the result was.

Steve Miller: Tom Hauge didn't get a hold of you?

Ms. Stepp: No.

Mr. Miller: I know he sent you an e-mail on the letter you requested. We are going to hold off unless it is on state waterways or lands, protect the trumpeter swans restoration or we are asked by lake district to come in and take care of the swans. We could actually use lethal control, that would be the last option. I think it will take care of the Waterford situation and we still plan to have a meeting down there to talk about this, review the policy. We would like to have our folks try to assess whether or not the control efforts of shaking the eggs has worked in the past year or two. Monitor the population, try to get all our data in one spot and work from there. We do not intend to back off forever on this. This has become a real growing national problem and the Wildlife Service wants to take action. We talked to some eastern states and they are going through the same pains with opposition to this.

Mr. Tiefenthaler: It is my opinion and my understanding that essentially what we are saying we are backing off a little. We are not going to have a net gain, the policy is still no net gain in mutt swans. Even for this year. So we have 552 in the state, that isn't going to increase because we are backing off.

Mr. Miller: That is our intent. We are trying to defuse a situation in Waterford where there was a lot of local animosity against us, even with the egg shaking, we weren't killing the adults, we were just shaking eggs, handling eggs. Those folks didn't want it. That was spreading to other communities. There was a feeling that even though we set up our control policy and had some public hearings about three years ago, the intervening time there are new players, new people, they are not aware of this, they don't understand our view of what we are trying to do. We really need to retrace our steps with folks or we are going to have political problems with lack of understanding of what is going to go on. In the meantime, we do not want the animal to spread, that is our view. We think there are others in the bird community that do not want the animal to spread. So we try to find this balance of containing the good things but not upsetting folks to the point where they are overly reactive. We stayed in touch with the legislatures. They wanted us to calm the situation down. They felt they were having trouble supporting us in what we wanted to do until we did some additional public outreach work. So, we think our policy is an acceptable middle ground. It is not our desired policy from our standpoint. I think it needs the public interest of expressing the concerns halfway. They are going to feel they want us to stop. We do want to go to public meetings, formalize the policy and bring it back to the Board, asking to sanction it to what our goal is going to be. However, that won't be for another month or so.

Ms. Stepp: Will it be before the moratorium? Is that what is going on right now?

Mr. Miller: A temporary for this year, for 2001. And we will have updated information by the end of this summer, this breeding season. We will try and come back to you in late fall or early next year in time for 2002. What it means is that we had some mutt swans show up in Jefferson County. We had some trumpeters that acted like they wanted to nest there. We would kill a mutt on that property if it shows up.

Mr. Tiefenthaler: But we are not going to allow them to nest. According to Wildlife Management in Milwaukee, it is publicly stated that they will not be allowed to nest this year.

Mr. Miller: That is not our intent. We are not going to go in and rattle the eggs unless they are on state land, state property, state waters. Or, unless a person asks us to come in and take control we will. Otherwise, we are going to back off for a year.

Ms. Stepp: I hope the Department is going to look into, who are we to decide who is the better swan, the prettier swan, the nicer swan. That is really what the public's concern is. They feel that the Department is playing God. Saying that we like this swan better than that swan so we are going to destroy those. The biggest outcry is who are we to decide that. Their position is, let the strongest survive.

Mr. Miller: We are going to have to make a judgment on the species that are non-native in this state and if we want it to exist. It gets into this issue of good exotics and bad exotics. Species is how we interpret it and how we use it. It is definitely a judgment call by a professional resource agency like us that is either going to reaffirm or modify it by the Board, like yourself. This is a very complex argument on either side and what we will try to show is why we don't feel the need to proliferate at will. We think they are harmful exotic while these other exotics that we feel are not harmful and fit into the management interests that the public have.

Steve Willett: We had set our schedule for the summer and when we were visiting the north we had tentatively looked at Marinette Park but we chose a different location. Subsequent to that time there have been additional issues that have developed in that area and I would like to revisit moving back to Marinette County of that summer meeting.

Mr. Tiefenthaler: I would second that.

Mr. Behnke: I would support that.

Chairman Solberg: That is the time that we are meeting with Michigan and I don't know what arrangements have been made with them.

Secretary Bazzell: We will certainly talk with them. We could move it. As we talked about it previously with the Board the location that had been proposed in Michigan was Land O' Lakes. But, we could certainly talk with Michigan.

Mr. Behnke: Couldn't we have that meeting and take another location from elsewhere?

Secretary Bazzell: What we could do is, there is another meeting scheduled in the northeast part of the state with Neenah/Menasha in October. This would be an option but I don't know about the timing with the WPS action. That would be another possibility.

Chairman Solberg: Why don't you and I talk about that and see if we could set up a time to get up there for one of our meetings.

Howard Poulson: I have one item with three parts. The Wisconsin Environmental Initiative Farm of Platteville. There is a committee there that meets with supporting members from the DNR and I don't believe that has been appointed. I don't know what the holdup is there. This was a question from this university. How do we fill up that committee for the university? Secondly, there was a million dollars placed by the DNR body and I want to know if that is in place to go ahead and if it is going to be available for that farm.

Secretary Bazzell: Yes, that million dollars was proposed in the Department's capital budget and endorsed by this Board. That proposal has been carried for the Governor's budget.

Mr. Poulson: All of a sudden it has been brought to my attention there are two farms above that farm that are going to cause us all kinds of problems. I don't know why all of a sudden this emerges.

Secretary Bazzell: I know, it is my understanding that as staff begin doing some background research on water quality, we want to make sure that we have valid results about that farm. What they discovered was there are some water quality issues that emanate from those two upstream farms.

Mr. Poulson: I don't see that as a real deterrent. If we could work with surrounding landowners and expand our area there that helps us with our knowledge of non-point I hope that we could work that out.

Secretary Bazzell: That isn't being explored actively right now. But, certainly we can get you some background on it.

James Tiefenthaler: I have one item. We have, for a long time, had the Duck Stamp Program. The money as to which has been going to habitat projects. I would like to have an informational item on a tracking of those monies. A lot of it has been spent by Ducks Unlimited. It has been requested for getting a handle on some money. Possibly for research projects, this could be legislative, by Delta Water Fall Foundation. I just received a letter from John Bergquist speaking of where the money is being spent for habitat. This amounts to a far amount of money. I think we are lacking a tracking of exactly how those monies are being spent by Ducks Unlimited. It would be a very good informational item for the whole Board to look at a review of it at this time. This has been going on and on for some time. Now we have another major national group requesting possible research money. To see what we could do about this as a policy. They are two very good groups. Maybe we could do some sharing of money between the two groups. Either Ducks money or other money that would be available.

Catherine Stepp: I wanted to add that I was not able to participate on the conference call of the Board's Resolution regarding the Senate's Wetlands Bill. I wanted to state publicly that had I been able to participate and available for the call, I would have voted in favor of it. I also wanted to thank the DNR staff for the countless hours that have been invested in the investigation of MMSD practices and making sure they are in compliance with their permit. There are a lot of questions that are still unanswered and the Department is active in pursuing them. I am thrilled the Department is taking such a proactive stance on this. Listing not only to Mr. Tiefenthaler, Mr. Poulson and myself but all the people of those communities and most importantly the State of Wisconsin protecting our water quality. We will be looking for more information.

Secretary Bazzell: I would just like to echo that. I really appreciate your thoughts. I know the extensive time that you, Board Member Tiefenthaler and Board Member Poulson have put into this. I also think that Jay Hockmuth and other staff have done an outstanding job of focusing on the law, what the requirements are and staying the course. Even with a lot of interest trying to push us in one direction versus another. I think the report is excellent, I think the follow-up is appropriate. I think where the junction now is to move forward and to make sure the right thing is done. I think people recognize that what we have done doesn't just have implications for Milwaukee but has implications for surrounding communities connected to that system. In fact it has statewide implications in terms of our needs to make sure that those standards are consistently applied across the State of Wisconsin.

Mr. Tiefenthaler: I appreciate the regional review that we are taking rather than the locally view. We need to look at it as a whole. This report is very reflective of the regional view which I was real happy to see.

Mr. Willett: I would like to make sure that more goes on record of recognizing that Catherine Stepp's support for the Wetlands initiative. There is some concern by some of the Senators that and there is some opposition that has come. I want the record to reflect that we appreciate her support.

Secretary Bazzell: In terms of the Board's actions last month, with the absence of Ms. Stepp. It certainly reflects in the comments made this morning reflecting her strong support for the Board Wetland Resolution that past. We want to make sure that the minutes reflect her strong support of the resolution.

I am passing around what is going to be our First Annual Fishing Preview. This is a wonderful publication that was put together with our fishery staff along with the staff of Bureau of Communication and Education. A wonderful format, very informative, the publications will be made to the public at DNR facilities as well as ALIS agents throughout the State of Wisconsin. I think the public will look very favorably to the publication.

5. Special Committees' Reports.

There were no Special Committee Reports this month.

6. Operating Committees.

6.A. Air, Waste and Water/Enforcement Committee.

6.A.1. Minutes.

There were no minutes for February since all agenda items were taken up during the Full Board meeting.

6.A.2. Approval of the Laboratory Certification Program's budget and fee schedule for FY 2002.

Greg Pils, Audit Chemist, explained Section 299.11 of the Statutes authorizing the Department to promulgate a graduated schedule of fees to recover the costs of administering the Laboratory Certification Program. The Department recommends the Natural Resources Board approve the Laboratory Certification Program's proposed fee schedule for fiscal year 2002. Under this proposal, the Department will collect sufficient fees to operate the Program at \$54,971 below its \$742,2000 expenditure authority, and the cost per relative value unit will remain unchanged from fiscal year 2001 at \$47.00. There will be an increase in laboratory fees from fiscal year 2001. Approval of this proposal would mark the first time since the inception of the current annual fee adjustment system that laboratory certification and registration fees would not increase from the previous fiscal year.

There was discussion about the fees not increasing from 2001 to 2002 and the relative value units. An explanation was given by Mr. Pils.

Mr. Willett MOVED, seconded by Mr. O'Brien approval of the Laboratory Certification Program's budget and fee schedule for FY 2002. The order was carried unanimously by those members present.

6.A.3. Adoption of Order FH-48-00 – revision of s. NR 25.03(2)(b)3.b., Wis. Adm. Code, pertaining to the requirements for relicensing of commercial fishers on Lake Michigan.

Bill Horns, Great Lakes Specialist, presented on the minimum catch rule for commercial fishermen on Lake Michigan. He gave background information on this minimum catch rule. This order changes the requirements for relicensing of commercial fishers on Lake Michigan. In order to identify inactive licenses, persons who apply for annual renewal of commercial fishing licenses for Lake Michigan must meet several criteria. Since 1989, one key criterion has been the minimum annual catch requirement. To qualify for relicensing, each licensee must have reported a minimum harvest of smelt or (in combination) yellow perch, whitefish, menominees and chubs. To satisfy the minimum catch requirement using smelt, the licensee must have reported a harvest of at least 147,870 pounds from zone 1 or 76,770 pounds from zone 3. To satisfy the minimum catch requirement using the other species in combination, the licensee must, in at least one of the three commercial fishing zones, have reported a combined harvest that: 1) exceeds one or two numbers: a zone-specific level set out in NR 25.03 or 2) an alternate computed level based on the harvests of all fishers during the year preceding the year during which the application for relicensing is submitted. Under the present rule proposal, an alternate computed minimum catch requirement would be established for smelt and the alternate minimum catch requirement for smelt and for all the other species in combination would be computed based on harvests by all fishers during the most recent 12 month period, June of the preceding year through May of the year of the application. This rule will make it easier for a commercial fisher to qualify for relicensing in years when fish stocks are declining. One purpose of relicensing criteria is to assure that licenses are issued only to active fishers. It is essential to retain meaningful criteria for identifying active fishers, but flexibility is appropriate when fish populations decline. This order changes the requirements for annual relicensing of commercial fishers on Lake Michigan. In order to identify inactive licenses, persons who apply for annual renewal of commercial fishing licenses for Lake Michigan must meet several criteria.

Mr. Willett: Is there an appeal for someone that gets sick or their equipment gets damaged?

Mr. Horns: Yes, there is an unavoidable circumstances clause in the code.

There was discussion on the alternate period of the one year period ending July 1 of the fishing year, preceding the one they are getting relicensed from. Mr. Horns further discussed issues that were raised as to do away with the minimum catch requirements. The Department's policy is they disagree with that, felt this was needed to identify active fishers. It was also suggested that we use an effort based test instead of a harvest based test under which if they fish 30 days and are an active fisherman. He stated their concern with that was they it is ambiguous, its not as easily verified. If it is based on harvest they can check the book when it comes in and they can count the fish at that time. Another request that was made was they include smelt in this, so that was another change that they did make to the original rule. This change might allow the relicensing of up to 13 license holders who might otherwise loose their license. It doesn't mean that others won't loose their license even with this change because with the declining harvests in Green Bay, even without it, it is looking very difficult for some fishermen to catch their own quota. Fish quota numbers were discussed.

Mr. Behnke MOVED, seconded by Mr. Poulson adoption of Order FH-48-00 – revision of s. NR 25.03(2)(b)3.b., Wis. Adm. Code, pertaining to the requirements for relicensing of commercial fishers on Lake Michigan, as presented. The order was carried unanimously by those members present.



6.A.4. Authorization for hearing on revision of Chapter NR 809, Wis. Adm. Code, pertaining to establishing drinking water standards for radionuclides.

This item was deferred to a future Board meeting.

6.A.5. Authorization for hearing on revision of Chapters NR 102, 104 and 106, Wis. Adm. Code, pertaining to stream classifications.

Bob Masnado, Bureau Chief, Water Quality Standards Section, presented the authorization for hearing on revision pertaining to stream classifications. Mr. Masnado stated this was their first very comprehensive update on stream classifications in about 20 years. Over the past 20 years we have pieced the updates on a case by case basis. They have now spent several years working with the regional staff trying to get everything updated on a comprehensive basis so they have a level playing field to begin from.

Greg Searle, Water Quality Standards Environmental Toxicologist, presented handouts. This rule revision fits into water quality standards. Water quality criteria, testing is done on organs which actually inhabit the water bodies. Designated uses for surface waters, that is what we will be discussing this morning and the antidegradation. NR 104 is where we list uses and designated standards. Primarily in NR 104 we list what we call variance waters. These are waters that do not meet a designation of what we call a full fish and aquatic life. The reason this is important is because there is less stringent, affluent limitations applied to discharges to these waters. Typically, these waters are flow limited and there is not enough habitat to support a diverse fish and aquatic life community and because of that there is more of a limited aquatic life that lives there and we apply standards that are less stringent than we would to other discharges. We asked for authorization for hearing in August, 1998 and had seven hearings at three locations, with approximately 35 people attending. There were very minimum comments. Following going out to those hearings there were some mistakes in the listings and we went back and revisited and actually did a very intensive effort with regional staff going around meeting with regional staff, getting things updated. We do feel that we have things updated now. The current stream classification rule revision effort was the phase one rule revision effort. Hopefully, in a year they would be coming back to the Board and asking for hearing authorization for phase two rule revision effort. The phase two revision effort will be much more comprehensive than what we are doing here, which is mostly upgrading the listings. Our intent on this was not to have any discharges forced into an upgrade by a designation being upgraded to a higher classification. He also discussed stream classifications.

Mr. O'Brien: How many classifications are there?

Mr. Searle: There are currently two variance classifications. We have our limited aquatic life classification which is very low flow streams. We do not have a fish community in those streams. The other variance classification is our limited forage fish classification. We have a forage fish community in those streams but it is not a robust forage fish community. After that we have our fish and aquatic life classification. In that classification we have warm water species that are either game fish or robust forage fish community. Our highest tier is what we call the cold water classification. Those would receive the most stringent limits.

Mr. Tiefenthaler: You have three then don't you?

Mr. Searle: For the fish and aquatic life those are not listed in NR 104. If the stream is not listed in NR 104, it would be false deficiency aquatic life.

Mr. O'Brien: From what I am hearing in your reclassification, if a municipality is currently discharging into a stream and is meeting the requirement because it is a lower classification, and if you raise the classification of that particular stream a little higher that municipality would have to put in a new type of treatment to meet that requirement. You are saying that you are not doing that to any streams or water bodies that are currently receiving discharge?

Mr. Searle: We are not doing that in this rule revision. What we have done is, there are some municipalities, that have planned and have even built for plans, that are discharging to a stream that is at a higher classification than their previous plan. If they are already in that track and have built that plan or they have planned for it, they have been included in here.

Mr. O'Brien: I got letters from two municipalities that said that you were disturbing their current discharge because by reclassifying their streams. Mt. Horeb and Lake Mills.

Mr. Searle: We do not believe that we are doing that. We believe that including them in the phase one rule revision has no impact to them. One of the things they said is they want a way to be included in the phase two rule revision because they want to receive maybe the benefits, for lack of a better word, of the phase two rule revision. We had discussions in our bureau and met with them up to the level of Bureau Director and we don't think that we are causing any impact at those two communities. I am sure this is going to come out in the hearing process and they will be before you again when we come back to you.

Mr. Masnado: We have been very forthright with those two communities and will continue to work with them and the consultants. We believe what they have done has been very proactive. Both their treatment plants were built to meet the higher levels that were to be expected if the classification were changed. This is a formality in trying to get the classifications where they should be. We will continue to work with them closely. One other point, it was recognized as cold water. Those typically would not be here. What that is, is a reflection of in NR 102 we default, deferring to the trout stream book of 1980, to list cold water streams. As you know, the fishery people are currently working on an update of that. We don't know when this might be available, but we need something to recognize that certain waters would be included in that book if that book were republished today.

Discussion of the KK River areas pursued.

Mr. Willett: What is driving the update rule revision?

Mr. Searle: We haven't done this in over 20 years, comprehensively. When this whole process started it was not broken into a phase one phase two rule revision. It was begun in 1995. Because of reorganization and the former coordinator, due to time off, we put this on hold for quite awhile. We need to do the right thing and get this updated with classifications that we are already using, we need to get them into code. The other things we can break off and do in a phase two rule revision. That is what is driving this portion of it.

Mr. Willett: Do you anticipate, out of this particular rule package, there are going to be some reclassifications? In other words, you are going to change some of the rules and some of the impact of this. How many streams are actually going to get reclassified or add changes to the streams themselves?

Mr. Searle: I don't have that information with me. I can get that for you. It is a small number compared to the total number of streams in here. I am thinking about 80.

Mr. Willett: We went through this prior to your employment. I notice the fiscal impact reflects the same fiscal impact that they said before. They said there will be minimum impact to the state and locals and some stream classifications will be more restrictive and some less restrictive. This may result in a cost increase to some facilities and cost saving to others, it is difficult to determine. What happened is, that all of a sudden we had a hundred changes. Now you are telling me we have 80 changes. Where the impact comes is not only on the municipalities but on all of those industries that are discharging. They are going to be required to update. You aren't telling me how much that is going to cost me. It cost hundreds of millions of dollars to the citizens of the state. We don't know what that is and you want to go ahead with this. I don't think that we can do that until we know what impact that is going to have on the citizens. That kind of a statement, we don't know what it is, it could be zero or it could be two hundred million, is not sufficient. We lead the nation in number of streams classified. Do we not? That was my commitment and yours, Mr. Tiefenthaler, that we would not go and classify anything unless we knew what the rest of the country was doing to get up to speed with us and we knew what it was going to cost our citizens.

Mr. Searle: I don't think that we do. I think there are other states that are more progressive than us, but I don't know that for sure.

Mr. Willett: Give me a state that has more streams classified than we do.

Mr. Searle: I think Ohio. I think they are at the leading edge of that. Maybe North Carolina and Florida. I think that those states have been pretty progressive. I think that a lot of the classification upgrades that we have done in here, although not legally, treatment plants have been built to meet the classifications that are in there. We haven't done the formal process of listing them. I do think there are some other ones that were in various stages of upgrading their building and we said that we have done a classification out here. This water body is now a cold fish and aquatic life and they have then gone back and have done some work to upgrade that treatment plant. I agree with you, there is a fiscal impact for those types of facilities. The other ones, I don't think there is a current

fiscal impact because they have built the facilities and are operating the facilities and discharging with the limits that are associated with those upgraded facilities.

Mr. Tiefenthaler: You are saying this rule change will have a net fiscal effect on the state and local government level. No cost, whatsoever, other than workload?

Mr. Willett: My concern is this, I made a commitment that before I would do any of this again, lakes, streams, whatever, that we would know exactly what the impact would be and what the other states were doing so we would not become noncompetitive. I don't see that here. So, I can't support it. Maybe the Board will support it and not go out to public hearing, but I don't think it is ready to do that. The other thing that concerns me is that it is a policy issue on which we were never consulted about if this should be reviewed or not. Had it been, we would have told you, you could review it so long as you look at the whole impact of this type of activity on the citizens on the State of Wisconsin.

Chairman Solberg: Are you suggesting that maybe we ask for a delay of this for one month and come back with that information, the fiscal impact information and other states?

Mr. O'Brien: I am just looking back on the proposed rule, Local government, public owned treatment works and industries maybe affected by the changes proposed. If registered they may be required to expand treatment plans upgrading to the more stringent rules . . . associated with higher quality received in a water use designation". So you are talking about expanded, you are not talking about current rules?

Mr. Tiefenthaler: If they are already built and they are operating at those levels. The impact would be negative or zero. I intend to agree with Mr. Willett. Without the degree of fiscal impact and these letters from Mt. Horeb and Lake Mills, concern me. Even before we go to hearing, I think we should delay this a month.

Chairman Solberg: If that is the consensus of the Board.

Mr. Searle: I suggest that we do this on a two month time frame because we will need to contact individual plants.

Chairman Solberg: Two months is fine.

Secretary Bazzell: What you are asking is fine. We need to get the information that you feel comfortable with. If a two month time frame is what is appropriate that is what we will do.

Chairman Solberg: Why don't you come back with that information and it will not require a motion at this time.

6.B. Land Management, Recreation and Fisheries/Wildlife Committee.

6.B.1. Minutes.

There were no minutes for February since all agenda items were taken up during the Full Board meeting.

6.B.2. Approval of revisions to the Feasibility Study for Caldron Falls State Park.

Sue Black, Director, Parks and Recreation presented the approve of revisions to the feasibility study for Caldron Falls State Park. She stated, we are here to approve the revision of the Feasibility Study for Caldron State Falls State Park. The two revision are, one being a map boundary change, it doesn't change the acreage. The second to officially name the park the Tommy G. Thompson Centennial State Park.

Mr. Tiefenthaler MOVED, seconded by Ms. Stepp approval of revisions to the Feasibility Study for Caldron Falls State Park. The order was carried unanimously by those members present.

6.B.3. Adoption of Order FR-42-00 – creation of Chapter NR 47, subch. IX, Wis. Adm. Code, pertaining to governing the state gypsy moth suppression program.

Darrell Zastrow, Section Chief, Forestry Science, presented the permanent suppression rules for the gypsy moth program. Previously in October the Board adopted emergency rules regarding the same suppression program and authorized public hearings. Based on public input from hearings, feedback from representative groups, we know

from our experience with the administration of our emergency rule a modified permanent rule is being presented to the Board for adoption.

Andrea Diss, Statewide Gypsy Moth Coordinator, provided an overview and summary of the statewide gypsy moth suppression program. Ms. Diss showed an overhead presentation. The purpose of this rule is to establish the administration of a voluntary, cooperative state suppression program for outbreaks in Wisconsin of the gypsy moth. The rule establishes procedures for participation in the program by landowners through counties. The suppression program will include an aerial insecticide treatment program (administered in partnership with the Department of Agriculture, Trade and Consumer Protection) and administration of federal (USDA Forest Service) cost sharing for participants in the treatment program.

The first goal was to reduce out breaking populations of the gypsy moth below a level where they could cause heavy damage. This is a voluntary program. Offered at the request of landowners. There are two components of the suppression program: 1) participation in a state organized aerial spray 2) cost sharing from the federal government, which they can apply for the state for this aerial treatment. There are different levels of support offered by the federal government for different pieces of the land. This is a program focusing on out breaking, damaging levels of gypsy moth. This is represented by the number of egg masses. The minimum number of egg masses per acre for eligibility is 500 or more on residential land and 1000 or more on rural land.

Mr. Behnke: Is that in order of preferred species by the gypsy moth?

Discussion pursued regarding county's representation and contacts within the counties.

Mr. Poulson: Are we convinced that all affected counties will have someone?

Ms. Diss: That is a reasonable expectation. All of the other major programs in the United States are run on a base at the county level and they all have representation. It is a program that should be self supporting. There is money from the federal government and it is reasonable to expect that landowners from service programs would pitch in their part. Money shouldn't go just for the treatment but also for the administration that has to go on for this program. The federal government provide administrative cost sharing. I think that would be a reasonable thing to ask the landowners.

Mr. Tiefenthaler: We are talking 500 acres minimum?

Ms. Diss: No. 40 treatment acres as a minimum. Costing between \$25.00 and \$30.00, quite reasonable. We do a range of outreach efforts. The most obvious were the public hearings. We also contacted the Wisconsin Counties Association, the Town's Association and the League of Municipalities for input and met with them. We sent copies of the final proposed permanent rule to all the counties and to anyone that demonstrated an interest in the program. Ms. Diss discussed the comments from the public hearings. She stated that concerns were: Public Parks – they wanted the minimum acreage decreased where parks are surrounded by ineligible land. That parks be included in the same category as the residential land that surrounds them in the criteria for eligibility and that these public lands be cost shared at the same level as privately owned land. The Department was able to accommodate the first two issues but Congress determines the third. We can't do anything about cost share since that is determined by Congress and has been in place since the 1950's. We have spoken with the state forester and he can take that up but Ms. Diss felt this will need a multistage approach since it has been in place for so long. It covers not just the gypsy moth program but other programs. There was a concern from the Wisconsin Counties Association. They were very concerned that counties might lose their reimbursement for administrative costs if there was a short fall from the forest service. The forest service offers, for example for residential land up to 50 percent, but if they have a year when for instance New England and Michigan all have really high demands for suppression they might reduce the percentage of cost share they will provide us all, say 45 percent. In the emergency rule we were going to take money from the administrative cost share to apply to treatment because we had only requested and only collected the minimum local share for the treatment. They were concerned about that. Instead, what we are going to be doing is requesting the entire cost treatment to be paid by the county prior to treatment. That would be \$13.45. That is the cost of spraying alone. The send in the entire cost prior to the treatment. Following the treatment, the forest service reimburses us for both the cost of the treatment and the cost of administration, which counties have provided us with. So, basically they have paid for both treatment and administrative costs ahead of time. The counties will receive the entire reimbursement from the forest service. They can reallocate it between treatment costs and administrative costs up to the maximum cost share allowed by the forest service. Ms. Diss explained the arrangements of county contacts.

Mr. Tiefenthaler: Is this on a first come first serve basis.

Ms. Diss: No, it is prorated. Everyone in the state is on the same level, it is all equal.

Discussion of how to include ponds within a park setting pursued.

Mr. O'Brien: We had a Board orientation on this previously, the eastern half of the state now is that Highway 51 or Highway 45?

Ms. Diss: Right now the farthest west under quarantine is Winnebago. That is as far west as it goes now. It is moving westward. Most of the focus is now on the Milwaukee area, along the shoreline, the Fox River Valley area and I am expecting some interest from Marinette, especially in central Marinette where they have a lot of dry oak.

Mr. Tiefenthaler MOVED, seconded by Ms. Stepp adoption of Order FR-42-00 – creation of Chapter NR 47, subch. IX, Wis. Adm. Code, pertaining to governing the state gypsy moth suppression program, as presented. The order was carried unanimously by those members present.

6.B.4. Authorization for hearing on revision of s. NR 46.30(2), Wis. Adm. Code, pertaining to adjusting stumpage rates.

Kenneth Hujanen, Section Chief, Forest Tax, presented the authorization for hearing regarding adjusting stumpage rates. This year we are looking to increase the stumpage rates and also to update the cord with weight conversions. The cord with weight conversions have been changed on our public lands handbook and we have been using those for a few years and it was brought to our attention. The rule is being proposed to make the annual stumpage rate adjustments as required in section s 77.06(2) and 77.91(1), Statutes, and to update the cordwood conversion tables for timber harvested on forest tax law lands. After the hearing process in May, I will be back in June to request the final approval of the new rates.

Mr. Willett: The amount that someone has to pay us, it seems more important that if someone wants to pull something out of the forest cropland there is a reimbursement?

Mr. Hujanen: Under forest crop law there it is a reimbursement formula based on what the taxes would have been each year that it would have been in, minus the taxes that they paid in, plus interest.

Mr. Willett: This formula will not affect that?

Mr. Hujanen: Not that. It will go under the managed forest law. Under the managed forest law they have to pay either the most recent years taxes, tax difference times the number of years it has been in or five percent of the value of the timber. It only comes into play in the first three years. After four years the difference in taxes is much more significant.

Mr. Tiefenthaler: The annual increase of revenue in the state is \$36,106, 50/50. What percentage is that over last year?

Mr. Hujanen: Last year I believe we brought in around \$800,000.00. About point three percent.

Mr. Tiefenthaler: Is that a function of volume, does that vary from year to year? Your not going by revenue from a standpoint of targeting what you are going to sell and what you are not going to sell.

Mr. Hujanen: Yes, it varies from year to year. No, we are not targeting what we are selling.

Mr. Tiefenthaler: This affects market rates?

Mr. Hujanen: Yes. As a matter of fact, I can tell when we are going up much quicker than what the market is or if the market is starting to fall because we use a three year average. Usually we get a lot of calls when we are going up faster than the market is. Last year our calls were fairly minimal.

Mr. Willett: How is our market now?

Mr. Hujanen: We are going up and down. Maple seems to be coming on a little stronger lately. Red oak is pretty much stabilized. There are a number of species that have dropped off. Overall, when I looked at the prices, we are fairly stable.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler authorization for hearing on revision of s. NR 46.30(2), Wis. Adm. Code, pertaining to adjusting stumpage rates. The order was carried unanimously by those members present.

6.B.5. Authorization for hearing on revision of s. NR 8.02(2)(b) and (4), Wis. Adm. Code, pertaining to the issuance of hunting and fishing licenses.

Joy Stewart, Budget and Policy Analyst, Administration and Technology, presented the issuance of hunting and fishing licenses authorization. This was developed about two years ago and it basically governs the ALIS system. At that time we anticipated that over time we would have more and more licenses and permits available under ALIS. That is what this rule change is doing, it will make the license sold by every ALIS agent instead of just by DNR. There is an assortment of other licenses. These as disabled, military and some specialized fishing licenses that were available either through DNR, which will not be made available for sale by agents designated by DNR in areas where the County Clerk wasn't selling them or in areas where demand was sufficient that we improved access to them. It will make some changes in who can buy a license or a stamp for someone else. In the enables parents to come in, sign for and buy a permit or license for a child under the age of 18 or will allow a person to buy a stamp for someone else. We do not anticipate any objections to this, it should make things easier for our customers.

Mr. Tiefenthaler: I have been doing this for two years. I have been buying licenses for my daughter for two years in an ALIS outlet. It is a lot of trouble because you have to get customer numbers, hunter safety certificate number, her certificate and you need to jump through a lot of hoops to do it. I wish we could do away with that.

Mr. O'Brien MOVED, seconded by Mr. Behnke authorization for hearing on revision of s. NR 8.02(2)(b) and (4), Wis. Adm. Code, pertaining to the issuance of hunting and fishing licenses. The order was carried unanimously by those members present.

6.B.6. Authorization for hearing on revision of Chapters NR 20 and 25, Wis. Adm. Code, pertaining to reproduction by yellow perch in Green Bay.

Bill Horns, Great Lakes Specialist, Fish Management and Habitat Protection, presented the authorization on the reproduction by yellow perch in Green Bay. We are dealing with a situation on Green Bay where the yellow perch population is declining, much like it has done earlier in Lake Michigan. We are proposing to protect some of the remaining perch. The perch population in Green Bay has gone up and down before. Mr. Horns stated that he believes it is time to protect these fish. Mr. Horns presented a slide presentation on yellow perch. The problem: sport harvests of yellow perch dropped from 3,286,000 fish in 1991 to 190,923 fish in 2000. Commercial harvest in the 1999-2000 fishing year failed to reach the harvest limit of 200,000 pounds, and so far this fishing year only 19,000 pounds of yellow perch have been harvested. He stated that the estimate of the biomass of one year old and older fish dropped from over 10,000,000 pounds in 1988 and 1989 to under 500,000 pounds in 2000, a 95 percent drop.

Mr. Horns explained how the yellow perch population is estimated. There are three data sets: annual fisher-independent trawl data from 78 stations which provides indices of reproduction and adult abundance, provides estimates of age-specific mortality rates and provides estimates of growth rates. Commercial reports and dockside monitoring provides data on commercial fishing mortality (pounds extracted) and provides age and size distribution of the commercial catch. Annual creel survey provides estimates of sport fishing mortality (numbers extracted) and provides age and size distribution of the sport catch. Data collected over 20 years are integrated in an age structured model.

Ms. Stepp: What is a biomass?

Mr. Horns: Pounds.

Mr. Tiefenthaler: How long does a yellow perch live versus a white perch?

Mr. Horns: Not as long. I think in an unharvested setting the white perch would be older.

Mr. O'Brien: Has anyone argued that if we wouldn't have had this kind of a decrease if no one had been fishing out there at all?

Mr. Horns: I think we would have. If you go back to an earlier chart that I showed, the young of year production, that just dropped off after 1991. I think what happened was there was natural mortality. I believe that the fishery did not cause the decline but the problem that we have today is because of poor reproduction by the fish that we have out there.

Discussion pursued as to how many white and yellow perch are eaten by cormorants.

Mr. Horns displayed several graphs and charts demonstrating the yellow perch harvest in Green Bay from 1990 to 2001. He stated that their options are closure, Lake Michigan Fisheries Forum recommendation of five fish daily bag limit and 100,000 commercial harvest limits. Final proposal is 10 fish daily bag limit and 20,000 commercial harvest limit.

Mr. Tiefenthaler: The commercials are all for that.

Mr. Horns: No.

Chairman Solberg: Were they aware of the 19,000 pounds they got before?

Mr. Horns: No. Mr. Horns stated they would like to defer a recommendation until after the public hearing. People have asked if we are going to have an emergency order, we would like to hold off on that until after the public hearings in May, 2001.

Mr. Behnke: These public hearings, are they in conjunction of the Congress hearings?

Mr. Horns: Separate. Considerations are conservation, the precautionary approach should apply. Comparison with Lake Michigan-the Green Bay stock is distinct from that in Lake Michigan. Although both stocks are shared, the Green Bay stock is predominately in Wisconsin. Ours is the only commercial harvest of yellow perch from Green Bay. The Green Bay sport fishery is predominately a boat fishery. The fairness – commercial versus sport: we try to achieve equal harvests by numbers over the long run and it is very hard to predict future harvests. We have enforcement issues.

Mr. Willett: What is the biological impact between the five and 10?

Mr. Horns: From our survey data of last year, we say that a five fish bag limit would have cut the harvest in half. A 10 fish bag limit would have taken it down by one third. What the impact will be next year, we will presume there will be fewer fish, catch rates will be lower and we don't know what the behavioral response will be either. That is the approximate ballpark figure.

Mr. Tiefenthaler: Your pretty conservative. You are talking 100,000 to 20,000 commercially. So, this is 80,000 pounds cut by sport fisherman with a five increase limit?

Mr. Horns: On the commercial side per member, a pound of fish commercially is about four fish. So, 100,000 pound quota is about 400,000 fish already that has doubled last years sport harvest in itself. The goal is to try and balance the harvest, have equal number of fish that come up to the sport fisherman that come up to the commercial fisherman.

Mr. Horns discussed related issues of the minimum catch requirements, ecosystem changes, white perch, carp, cormorant control and predator stocking.

Mr. Tiefenthaler: How does water depth and zebra mussels factor into this at all?

Mr. Horns: We have no way of knowing that, how they affect the perch. The water is lower and clearer, the bottom is covered with zebra mussels in spots, reducing nutrients inputs. Mr. Horns stated what they would propose the rule to accomplish: we project a Green Bay yellow perch population of 1.90 million fish in 2001; the present commercial harvest limit of 200,000 pounds (roughly 800,000 fish) would represent over 40 percent of that remaining stock. The proposed limit of 20,000 would be a little over four percent of the remaining stock. A sport harvest matching last year's (190,000 fish) would represent 10 percent of the remaining stock. The reduction of the sport bag to 10 will reduce the sport harvest by around one-third, leaving a sport harvest of seven percent of the remaining stock, if fishing practices do not change and if fishing success does not decline.

Mr. Willett MOVED, seconded by Mr. O'Brien authorization for hearing on revision of Chapters NR 20 and 25, Wis. Adm. Code, pertaining to reproduction by yellow perch in Green Bay. The order was carried unanimously by those members present.

6.B.7. Anthony Branch Streambank Protection Fee land acquisition - Dane County.

Richard

, Real Estate Director, Bureau of Facilities and Lands, presented the Anthony Branch Streambank Protection Fee land acquisition from Dane County. The item is being submitted because the purchase price exceeds \$150,000. There are also 32.5 acres outside of the established project boundary which is recommended to be added to the project upon approval. The parcel will provide land for public hunting as well as fishing and water quality benefits on almost 2,000 feet of Anthony Branch, a trout stream. Mr. Steffes recommended the Board approve the purchase of 72.5 acres of land for \$166,750 for the Streambank Protection Fee Program and the 32.5 acres outside the project boundary be added to the official project.

Mr. Behnke MOVED, seconded by Mr. Tiefenthaler the Anthony Branch Streambank Protection Fee land acquisition - Dane County, as presented. The motion was carried unanimously by those members present.

6.B.8. Council Grounds State Park land acquisition - Lincoln County.

Mr. Steffes gave a slide presentation with exhibits on this. The Department has obtained an option to purchase 6.0 acres of land from Kenneth and Helen Schwantz for \$130,000 for the Council Grounds State Park in Lincoln County. The item is being submitted because the parcel has improvements that make up approximately 75 percent of the total purchase price. This parcel is completely surrounded by state land within the project area and will greatly increase the Department's opportunities for improving the park entrance, visitors' center and parking area. In order to provide needed funds for this transaction, the Department recommends a revision of the Stewardship 2000 expenditure plan. Exhibit A of the plan was viewed and approved by the Board most recently (February 2001), Exhibit B was viewed and is the proposed reallocation of Stewardship funds needed for this purchase. Mr. Steffes recommended that the Board approve 1) revision of the Stewardship 2000 funding allocations (Exhibit B) and 2) the purchase of 6.0 acres of land for \$130,000 for the Council Grounds State Park.

Mr. Tiefenthaler MOVED, seconded by Mr. Poulson the Council Grounds State Park land acquisition - Lincoln County, as presented. The motion was carried unanimously by those members present.

6.B.9. Scattered Forest Land of the Great Addition land sale – Vilas and Iron County.

Mr. Steffes: The Department proposes to sell 1,390.38 acres of land in Vilas and Iron Counties to Lac du Flambeau Band Lake Superior Chippewa for \$1,080,477. This land sale was anticipated at the time of the 32,000 acre "Great Addition" purchase in 1999. Therefore, the recently enacted Stewardship 2000 legislation contains a provision for recycling sales proceeds to provide funding for additional conservation land purchases. The 1,390.38 acres to be sold to the Lac du Flambeau Band are no longer needed for conservation purposes. Mr. Steffes recommended that the Board approve the sale of 1,390.38 acres for \$1,080,477 to the Lac du Flambeau Band.

Discussion pursued regarding the sale price verses the purchase price.

Mr. Behnke MOVED, seconded by Mr. Willett the Scattered Forest Land of the Great Addition land sale – Vilas and Iron County, as presented. The motion was carried unanimously by those members present.

6.B.10. Mecan River Fishery Area and Ice Age Trail land acquisition – Waushara County.

Mr. Steffes: The Department has obtained an option to purchase 115.93 acres of land from Visions 4, LLC for \$288,500 for the Mecan River Fishery Area and for the Ice Age Trail in Waushara County. The item is being submitted because the purchase price exceeds \$150,000. There are three distinct conservation purposes served by this transaction. First, there are 1,700 feet on the Mecan River, a famous trout stream, near its outflow from Mecan Springs. Second, there is important habitat for the Karner Blue Butterfly, a state and federally endangered species. Lastly, the parcel will serve as an important connector for the segment of the Ice Age Trail. Mr. Steffes recommended that the Board approve the purchase of 115.93 acres of land for \$288,500 for the Mecan River Fishery Area and the Ice Age Trail.



Mr. Tiefenthaler: I have a suggestion. I am constantly digging to find out how much we pay per acre, how much it was that the former owner paid per acre. In the design of the green sheet why don't we have that as a sub-paragraph so the information is there.

Secretary Bazzell: Would that be true with those that have a short term turn around as opposed to one that doesn't?

Mr. Tiefenthaler: We may not even know. If it is available, I think it should be there just so we know. This Board has rejected some land acquisitions just because the turn around time was too short. I would like that design change so we can compare.

Mr. Tiefenthaler MOVED, seconded by Mr. Poulson Mekan River Fishery Area and Ice Age Trail land acquisition – Waushara County, as presented. The motion was carried with a vote of five to one, with Mr. Behnke opposing, by those members present.

Ms. Stepp: I am looking for 6.B.11. What is the status on that piece of property, south of the Willow Flowage. I am getting e-mails, calls and letters and these people are very worried.

Mr. Steffes: I talked to the appraiser and secretary yesterday because I knew we had this meeting today and thought it might come up. She said he is diligently working on it. I will go back to my desk right now and ask when we can expect it.

Ms. Stepp: You had said that it went out for appraisals, you were really close to something. If there is so much time that passes, does something happen? Does this expire? Can't we get it?

Chairman Solberg: In this particular case, I have also talked to the owner and they gave us assurance they are going to sell it to us.

Mr. Steffes: I think they do want to work with us. I do hear you, we will get an appraisal as soon as we can.

4. Board Member Matters.

Gerald O'Brien: This is something about Stevens Point. Just as an informational item, there is kind of a major issue developing in the Stevens Point area. That is the bypass of Highway 10 around Stevens Point. The big issue right now is how it is going and where it is going. I have had the chance to talk to some of the DNR people up there. It involves crossing the Wisconsin River, wetlands, potentially destroying a county park and a number of waterways up in that area. I asked Secretary Bazzell if he would stay abreast of it, in fact, he was going up there to take a look at it within the next few days. It is a hassle between the Department of Transportation who can't seem to make up their mind on anything. Since we do have some sort of regulatory power over these things and in view of the impact that it is going to have over wetlands, fish and animals in that area, it would be a good information item for the Board to be aware of.

Mr. Tiefenthaler: Just for my knowledge, are they going north or south?

Mr. O'Brien: They haven't decided yet. They have been meeting with Kevin Bunkers.

Secretary Bazzell: Kevin has been doing an excellent job, staying on top of the issue, meeting with the public to understand their concerns and express the concerns that the Department has with that project. In addition, I am meeting with Secretary Mulcahy Department of Transportation, to discuss this. He is personally aware of our concerns with the project.

7. Department Secretary's Matters.

7.A. DONATION - \$10,000 from The Lake Koshkonong Recreation Association to assist towards the operation of the Bark River Hatchery for Lake Koshkonong and other fishery enhancement projects on the lake.

Secretary Bazzell: Requested for the Board to accept a donation from The Lake Koshkonong Recreation Association of \$10,000. The donation to the Department will be used towards the operation of the Bark River Hatchery for Lake Koshkonong, and other fishery enhancement projects on the lake. They have adopted the fry

hatchery at the Bark River in Fort Atkinson as a primary beneficiary but have supported other projects. They have supported transferring pan fish to Lake Koshkonong, stocking and aerating children's fishing ponds and purchasing equipment to support the Department's management efforts. In accepting this gift, we intend to continue our cooperative fish stocking efforts on Lake Koshkonong through the operation of the hatchery, fish stocking and transfers.

Mr. Poulson MOVED, seconded by Mr. O'Brien acceptance of the donation. The motion was carried unanimously by those members present.

- 7.B. Secretary Bazzell passed out the current operating guidelines for Board procedures for Board members information.

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The meeting adjourned at 2:45 p.m.